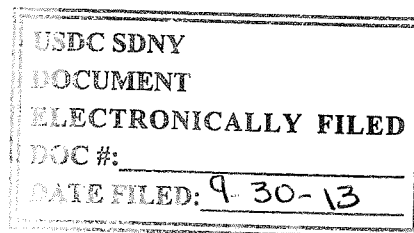


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
TERRY WALLEY,

Plaintiff,

-against-

P.A. and PHS MEDICAL DEPARTMENT
OF CORRECTION

Defendants.
-----X

:
: 11 Civ. 9053 (ALC)(FM)
: **ORDER ADOPTING REPORT**
: **& RECOMMENDATION**

ANDREW L. CARTER, JR., United States District Judge:

On March 22, 2013, Magistrate Judge Frank Maas filed a Report and Recommendation dismissing Plaintiff Terry Walley's complaint without prejudice for failure to serve the complaint pursuant to Fed. R. Civ. P. 4(m). The Report and Recommendation provided 14 days from service of the Report in which Plaintiff could file objections. It further noted that any requests for an extension of time should be directed to this Court. The Report warned that failure to file objections within 14 days will result in waiver of objections and preclude appellate review. As of the date of this order, Plaintiff has not filed any objections to the Report and Recommendation. Plaintiff likewise has not requested an extension of time for filing objections.

Pursuant to 28 U.S.C. § 636(b)(1)(B), a magistrate judge may "submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court," of an involuntary motion to dismiss. The scope of review of the magistrate's report is *de novo*. The Court has reviewed Magistrate Judge Maas's Report and Recommendation. The Court has also reviewed the case docket, reflecting that Plaintiff has not yet served Defendant with a copy of the complaint and has otherwise failed to prosecute the case, despite a warning that his case could be dismissed for failure to prosecute. (*See* Dkt. No. 15).

Accordingly, the Court adopts the Report and Recommendation in its entirety. Plaintiff's complaint is dismissed without prejudice.

SO ORDERED.

Dated: September 30, 2013
New York, New York

ANDREW L. CARTER, JR.
United States District Judge